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Iran's Nuclear Challenge – U.S. Policy Options

Attached is a paper, published on January 23, 2006, by the Committee on the Present Danger,¹ which outlines U.S. policy options in response to Iran's drive to build a nuclear weapon.

Timeline Update

Iran has continually defied the international community's demands that Iran cease its nuclear weapons program.² For example, on January 10, 2006, Iran removed the International Atomic Energy Agency ("IAEA") seals on the nuclear equipment at the Natanz facility for the purpose of resuming uranium enrichment activities.³ In response, the EU-3 (i.e., Britain, France, and Germany) on January 12, 2006 declared its negotiations with Iran to have reached a "dead end."

The IAEA Board of Governors once again took up the matter of Iran's actions at its February meeting. At the conclusion of the February 4, 2006 meeting, the Board of Governors adopted a resolution by a vote of 27-3 to request the IAEA Director-General to convey, immediately after the March IAEA Board of Governors meeting, a report to the United Nations Security Council pertaining to Iran's implementation of prior IAEA resolutions. For example, at the September 2005 Board meeting, the IAEA adopted a resolution that found Iran to be in non-compliance with its obligations under its NPT Safeguards Agreement and called upon Iran to

¹ The Committee on the Present Danger emerged in the 1950s as a bipartisan education and advocacy organization. During the Cold War, the Committee's mission was to raise awareness of the threat to America's safety and build support for an assertive policy to promote the security of the United States. Today, radical Islamists similarly threaten America's safety, and the Committee is dedicated to protecting and expanding democracy by supporting policies aimed at winning the global war against terrorism and the movements and ideologies that drive it. Senators Kyl and Lieberman are honorary Co-Chairmen of the Committee.

² For a detailed historical recount of Iran's clandestine nuclear program, see Senate Republican Policy Committee, *Addressing Iran's Nuclear Challenge*, Sept. 6, 2005, available at <http://rpc.senate.gov/files/Sept0605AddressingIranDF.pdf>.

³ See Report by the Director General, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, ¶¶ 41-42, IAEA Doc. No. GOV/2006/15 (Feb. 27, 2006); IAEA Board of Governors Resolution, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, ¶ 4, IAEA Doc. No. GOV/2006/14 (Feb. 4, 2006).

observe such commitments.⁴ Iran's non-compliance included its failures to report possession, processing, and use of nuclear material, or declare facilities where such material had been processed and stored.⁵ On February 27, 2006, IAEA Director-General Mohammed ElBaradei published the report he was to deliver to the IAEA Board of Governors meeting on March 6, 2006.⁶

The United States believes that the use of the word "report" in the February resolution is purposeful because the governing statute of the IAEA requires the IAEA Director-General to "report" non-compliance with Safeguards Agreements to the Board of Governors.⁷ The Board is then to call upon the state in non-compliance "to remedy forthwith any non-compliance," and the Board "*shall report* the non-compliance . . . to the Security Council and General Assembly of the United Nations."⁸ In this regard, there is no further action that is required at the March Board of Governors meeting for Iran to be reported to the Security Council immediately after the meeting, just as the text of the February resolution states. The requirements already have been met for the reporting to go forward.

Secretary Rice stated that, under the IAEA resolution, Iran "must suspend enrichment-related and reprocessing activities, cooperate fully with the IAEA, and return to the negotiating process based on the previously agreed terms."⁹ As President Bush and Secretary Rice have both emphasized, this is not the end of diplomacy, but merely the next step. The international community has a role to play in this matter, and the Committee on the Present Danger paper provides policy options for the United States to effectuate the goals of the IAEA resolutions.

Legislative Initiatives

There are also various relevant legislative proposals making their way through Congress that address the Iran matter.

The Iran Freedom and Support Act reauthorizes expiring Iran sanctions.

The Iran Freedom and Support Act ("IFSA")¹⁰ permanently reauthorizes the Iran-Libya Sanctions Act ("ILSA"),¹¹ which is scheduled to expire in August 2006.¹² The attached

⁴ IAEA Board of Governors Resolution, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, ¶¶ 1, 5, IAEA Doc. No. GOV/2005/77 (Sept. 24, 2005).

⁵ *Id.* at ¶ (d).

⁶ IAEA Director General Report, ¶ 5.

⁷ IAEA Statute Art. XII(C).

⁸ *Id.* (emphasis added).

⁹ Condoleezza Rice, Statement of the Secretary of State regarding the IAEA Board Resolution on Iran, Feb. 4, 2006.

¹⁰ Senator Santorum introduced the Iran Freedom and Support Act ("IFSA"), S. 333, on February 9, 2005, and the bill was referred to the Committee on Foreign Relations. The bill now has 46 cosponsors. Representative Ileana Ros-Lehtinen introduced the House companion bill, H.R. 282, on January 6, 2005. It was referred to the Committee on International Relations Subcommittee on the Middle East and Central Asia. On April 13, 2005, the subcommittee marked the bill and reported it to the full committee by voice vote. The bill is now pending before the full committee, and it has 342 cosponsors.

¹¹ Iran-Libya Sanctions Act ("ILSA"), Pub. L. No. 104-172, 110 Stat. 1541 (1996).

¹² S. 333, § 204. ILSA was passed with a provision that sunset the bill on August 5, 2001. In August 2001, ILSA was renewed for a five-year period. ILSA Extension Act of 2001, Pub. L. No. 107-24, 115 Stat. 199.

Committee on the Present Danger paper discusses the options for invoking and applying the ILSA sanctions regime in this situation.

In addition to reauthorizing ILSA, IFSA declares that it should be the policy of the United States to support democratization efforts in Iran. The bill then outlines various democracy promotion activities that Congress advocates. It authorizes the President to provide assistance to eligible groups that support democracy and advocate nonproliferation in Iran, encourages the President to appoint a special assistant on Iranian matters, and encourages an intensification of efforts to halt the nuclear weapons program of Iran, including efforts to end the supply of nuclear components or fuel to Iran. The bill then authorizes \$10 million in appropriations to carry out such activities.¹³ In the pending supplemental request, the President has requested \$75 million for democracy promotion activities in Iran.

The Iran & Syria Nonproliferation Enforcement Act further strengthens the sanctions regime.

The Iran and Syria Nonproliferation Enforcement Act¹⁴ is another measure to strengthen the sanctions regime against Iran, by amending the Iran and Syria Nonproliferation Act.¹⁵ The original Iran and Syria Nonproliferation Act authorized the President to apply sanctions against entities that assist Iran's WMD or missile programs. The amendment requires the President to apply such sanctions, for not less than two years, against such entities. It further requires the President to sanction any entity that controls the entity that transferred assistance to Iran's WMD or missile programs, i.e., the parent company. Moreover, the amendment expands the types of sanctions that are available to the President in this situation. For example, it prohibits any new U.S. investment in or financing of entities and their parent companies that support Iran's WMD or missile programs. Finally, the Iran and Syria Nonproliferation Enforcement Act provides detail to the President's authority to waive the mandatory sanctions for national security reasons. Most notably, the President must provide a written justification to relevant Congressional committees describing the entity that the waiver is to be applied to and the rationale supporting such a waiver.

Conclusion

The Administration should seriously consider the policy options advocated in the Committee on the Present Danger paper, which is attached, and Congress should pass the various legislative initiatives to strengthen the sanctions regime against Iran.

¹³ S. 333, § 303(g).

¹⁴ Senators Feingold and Kyl introduced the Iran and Syria Nonproliferation Enforcement Act, S. 2279, on February 14, 2006, and the bill was referred to the Committee on Foreign Relations.

¹⁵ Section four of the Iran Nonproliferation Amendments Act of 2005, Pub. L. No. 109-112, 119 Stat. 2366, 2369, amended the original Iran Nonproliferation Act of 2000, Pub. L. No. 106-178, 114 Stat. 38, to make the Act applicable to Syria.

The Committee on the Present Danger

fighting terrorism and the ideologies that drive it

The Honorable R. James Woolsey
The Honorable George P. Shultz
Co-Chairmen

Senator Jon Kyl
Senator Joseph Lieberman
Honorary Co-Chairmen

A Committee on the Present Danger Policy Paper: IRAN - AN UPDATE

In December 2004 the Committee on the Present Danger published its initial policy paper on Iran, recommending a number of U.S. policy steps to achieve a democratic Iran.

Since then, Iran has continued dissembling over its nuclear program. The Militant Islamist Mahmoud Ahmadinejad became president of Iran last summer in an election that was neither free nor fair and that was boycotted by a majority of Iranians. He has issued a call to “wipe Israel off the face of the map” and denied that the Holocaust occurred. He has promised a “world without America,” adding that such a goal is “attainable, and surely can be achieved.”

Ahmadinejad has reiterated the objective of the constitution that has governed Iran since the 1979 revolution: perpetuation of theocracy and militant, offensive jihad. He has said: “The message of the [Islamic] Revolution is global ... Allah willing, Islam will conquer what? It will conquer all the mountain tops of the world.” Hassan Abbassi, “intelligence” advisor to the Iranian president, has been specific about how that might be accomplished: “We have a strategy drawn up for the destruction of Anglo-Saxon civilization,” he boasted. “We must make use of everything we have at hand to strike at this front by means of our suicide operations or by means of our missiles.”

Ahmadinejad personifies the most radical of the Shi'ite Islamists who espouse theocracy and reject democracy. Their war against us began before 9/11. Such Militant Islamists cannot be appeased - they will wage war until they are stopped.

There is ample evidence that most Iranians do not endorse such radicalism - rather, they yearn for the opportunity to chart their own destiny unhindered by the regime's tools: the Revolutionary Guards, the Basij and the Morality Police.

Nearly a century ago, Iran adopted a constitution that established freedoms for its citizens – freedoms that have been lost. The ruling regime sponsors terrorism, represses human rights, jails dissidents, oppresses women, and is determined to have nuclear weapons. We believe the United States' policy objective must be regime change in Iran so that the Iranian people can join the international community and indeed the Free World; so that Iran can become a nation that does not repress its own people and threaten others, one with a freely-elected government accountable to the people, not to a tiny minority bent on theocratic dictatorship.

We present the following proposals toward this objective of regime change. We stress that military options should be only a last resort.

PRESSURE IRAN'S GOVERNMENT

Defuse the nuclear threat posed by Iran. The International community's goal must be to prevent the development or acquisition of nuclear weapons by Iran's present rulers, who comprise the most radical regime in the Broader Middle East, a terrorist-sponsoring regime espousing explicitly hostile, aggressive and genocidal intentions.

In September the International Atomic Energy Agency voted 22-1 that Iran was in non-compliance with its governing statute. This vote was a necessary trigger to send the matter to the United Nations Security Council.

The issue is not whether Iran is entitled to have nuclear reactors to generate electricity; it is the current ruler's insistence on having the capability to enrich uranium and undertake other steps in the nuclear fuel cycle that will enable them to acquire nuclear weapons. The regime already has - with North Korean help - a major ballistic missile program. In time, the mating of these programs will threaten the security of many nations.

On Tuesday, January 10, at its Natanz facility, Iran removed the International Atomic Energy Agency's (IAEA) seals on its nuclear equipment. The Iranian government states that its purpose is to engage in "research." It is clear to any objective observer, given the full range of the government's duplicity and actions, that the real purpose is to obtain enriched uranium as a step toward producing weapons.

On Thursday, January 13, after nearly three years of fruitless negotiations, the EU-3 (Britain, France and Germany) declared the discussions with Iran at a "dead end" and urged that the matter be referred to the Security Council. A first step will be referral by the IAEA board to the Security Council.

Some say that any Security Council punitive action against Iran would be thwarted by a veto -- Russian, Chinese or both. But the Russians reacted quite negatively to Iran's rebuff of their recent proposal to enrich Iran's nuclear fuel in Russia (which would provide a means of blocking Iranian nuclear weapons development). An Iranian nuclear energy program has been and can be lucrative for Russia, but Russia has never supported an Iranian effort to develop weapons. In recent weeks the Russians have moved much closer than before to the U.S. position.

China generally opposes sanctions of any kind; however, if the EU-3, the U.S. and Russia are united and China finds itself isolated on the issue, it may be amenable to persuasion -- if not to vote "aye," then to abstain, which would have the same effect.

There is a strong lever available to generate support in the Security Council: the Iran, Libya Sanctions Act of 1996 (ILSA, amended in 2001 and extended to the end of this year). ILSA

allows our government to impose severe sanctions on any company that invests more than \$20 million a year in Iranian oil production. This can include denying Export-Import Bank loans, barring export licenses, barring U.S. banks from lending more than \$10 million a year to sanctioned parties, barring sanctioned financial institutions from serving as primary dealers of U.S. bonds, banning U.S. government procurement of goods and services from sanctioned parties and imposing import sanctions. Since many overseas-based oil industry companies are closely allied with U.S. companies, through subsidiaries or contracts, the invocation of this act could have a major impact on them as well as on American companies.

Although the act has not been invoked, it could be by administrative order. The mere threat of invocation might be enough to get reluctant countries--such as Russia and China -- to vote with us (or abstain) on the Security Council because of the close ties American oil companies have with their own companies.

If this leverage or other persuasion results in positive Security Council action, there are several sanctions the Council could impose on Iran. Among these would be an embargo on refined petroleum products (which Iran imports), a freeze on Iranian government and leadership assets abroad (see "Smart Sanctions" below) and prohibiting Foreign Direct Investment (FDI) in Iran.

If Security Council cooperation of Russia and China cannot be obtained, we should tell the EU-3 that they and we should impose the sanctions described to the fullest extent possible. And, if the EU-3 do not join us, we can unilaterally invoke ILSA to greatly crimp Iran's ability to obtain FDI for oil production expansion.

Simultaneous with these steps the U.S. can and should apply ancillary pressure on Tehran. Iran uses Hezbollah to project its influence in the region. Now that Syria has withdrawn from Lebanon, the U.S. is providing Lebanon with considerable aid. Under threat of withdrawing the aid we should demand that Lebanon use its army to disarm Hezbollah whose cadres in the southern part of the country conduct raids against Israel. An added benefit: A disarmed Hezbollah is a necessary pre-condition for full Lebanese sovereignty and freedom.

In time, once Iran has become a democratically-governed country, in peace with its neighbors and the world, nuclear energy for power production purposes would no longer lead to the threat of nuclear weaponry.

Smart Sanctions. The Grand Ayatollah Khamenei and President Ahmadinejad and their circles are the problem and the Iranian people are our natural allies. We should develop sanctions that target the leaders, their families and their cohorts so that the sanctions are harmful to them, not the people of Iran.

As part of a "smart" sanctions effort, we can create leverage against the theocratic regime by deftly making it known that an international legal case is being marshaled against Khamenei and his cohorts. U.S. Government agencies, working closely with human rights organizations, should

begin gathering evidence. Then we could seek the cooperation of like-minded governments, leading toward the possible creation of an international tribunal to try Khamenei and others. By calling for the elimination of Israel, for example, Ahmadinejad has violated Article 3(c) of the 1949 Genocide Convention which makes punishable “direct and public incitement to commit genocide.” Ahmadinejad did not utter his statement in private; he did it before an audience of 4,000 people.

Other crimes for which evidence could be gathered include financing and facilitating of terrorists, corruption, the torture and murder of Khamenei’s opponents at home and abroad, and development of weapons of mass destruction in violation of the Non-proliferation Treaty and other accords. There is precedent for a special tribunal gathering evidence and eventually indicting a leader still in office. It is the case of Liberia’s Charles Taylor and the U.N.-approved Sierra Leone tribunal. In Taylor’s case, having an Interpol arrest warrant out against him contributed toward de-legitimizing him.

Other “smart” sanctions can be developed as well. Iran’s Revolutionary Foundations (*bunyads*) control 35 percent of Iran’s import-export business and are directly controlled by Khamenei. The Iranian people are well aware that Khamenei, certain other mullahs and their supporters have grown rich and corrupt. The U.S. and other nations are becoming more adept at identifying the economic crimes and assets of dictators and their cohorts. We should undertake a serious effort to identify those companies and overseas accounts associated with Khamenei and his entourage and Ahmadinejad and his and develop sanctions targeting them.

BUILD THE OPPOSITION

Fund and assist pro-democracy dissidents within Iran to help them better organize and communicate. It is time to strongly support Iranian freedom fighters. Regime change can come from within. While the pace cannot be predicted, it can be accelerated by giving pro-democracy Iranians the assistance and tools they require.

Activate the U.S. Interests Section of the Swiss embassy in Tehran. Iran has 36 Iranian nationals in its Interests Section of the Pakistan embassy in Washington. We should have the equivalent number of U.S. nationals in Tehran. At present we have none. Once in place, this group of Americans would be a listening post and an active cadre to encourage non-violent democratic forces in Iran. If Iran does not agree to reciprocity, we should expel the 36 Iranians from the United States. (Of course, posting American diplomats again in Tehran must depend on having confidence that Americans in Iran will receive full diplomatic rights and privileges – the experience of U.S. diplomats in Tehran in 1979 cannot be forgotten. Means to guarantee diplomatic protection would need to be explored.)

Undermine pillars of regime support. Khamenei relies on his security services to keep him in power. Faced with demonstrations in 2002, Khamenei was unsure the army would obey his orders and thus resorted to using hired paramilitary thugs.

The U.S. has opportunities to quietly develop relations with the military and various services in Iran and should seek to do so. Our CIA, FBI and Drug Enforcement Agency forces in the region have issues to work on, ranging from cross-border threats to terrorism to drugs. In developing these relationships our people should make it clear that those who cooperate in the transition to democracy can thrive “on the other side” (as many others in former dictatorships have done), but that those who persist in committing crimes against the Iranian people or others will be prosecuted. Specifically, we should call for the eradication of the Islamic Guard Corps and the Basij, reform or elimination of the Ministry of Information and investigation into the government’s support for vigilante groups such as Ansar al-Hezbollah.

ENGAGE THE IRANIAN PEOPLE

The President should appoint a senior official as the “point person” on Iran, and he should announce this in high-profile speeches spelling out U.S. policy - and the stakes involved in Iran. This would be aimed at both the Iranian and American peoples. Once appointed, the official should speak frequently with the Iranian people through all available media, such as radio, the Internet, satellite television. They will know he is speaking for the American president.

He should dramatize the plight of Iranian dissidents, jailed because they dared to call for free speech and assembly - journalists such as Siamak Pourzand and Arash Sigarchi, and democracy advocates such as Ahmad Batebi and the Mohammadi brothers, Manouchehr and Akbar. And, this official should coordinate U.S. efforts to have Iran barred from UNESCO and the U.N. Human Rights Commission (or its successor organization).

Television, radio, the Internet. The U.S. Government’s Farsi-language Radio Farda (“Tomorrow”) and several hours weekly of Voice of America television are a beginning, but not enough if we are going to effectively communicate directly with the Iranian people. Furthermore, these outlets do not always convey a coordinated U.S. policy message. They should, even if it means making staff changes.

A number of private U.S.-based Iranian satellite television stations exist, but they are underfunded and thus unable to achieve their real potential. A budget equal to that of Radio Farda and VOA television should be made available to them. At least \$10 million annually should be appropriated to assist independent television, radio and Internet communications with the Iranian people. Provide additional funds to pro-democracy dissidents within Iran to help them better organize and communicate.

Visa and exchanges. Ultimately it is Iranians themselves who will make the breakthrough to democracy and remove the Militant Islamists from power. There are many ways we can help, particularly with young Iranians and women as major agents of change. Cultural, academic and professional exchanges must form an important part of our effort to assist Iranians in the democratization of their country. Visiting scholars have considerable freedom of movement and association. Young activists from democratic countries could also enter Iran as tourists to meet with their Iranian counterparts. We should authorize American non-governmental organizations

(NGOs) such as Freedom House to operate within Iran and press the Iranian government to accept their presence.

Toward these ends, we should tie U.S. visas for Iranians to those which Iran grants to the U.S. Over the last year approximately four Iranians received visas to enter the U.S. to every one American receiving an Iranian visa. If the Iran government does not grant us parity, we should limit the number of visas we grant to the number granted us over the previous 12 months, and we should bar Iranian officials, their family members and business partners from entering the U.S.

PUBLICIZE THE REPRESSION

Disseminate widely information about the Iran regime's repression. Public hangings, Morality Police crackdowns on women thought to be dressed with insufficient modesty, the continued solitary confinement of journalist Akbar Ganji for supporting democracy - all are manifestations of a repressive regime.

Though promising improvements in social welfare, the mullahs and their followers have not delivered. Individual incomes are two-thirds, on average, of what they were before the fall of the Shah. Many young men are underemployed or unemployed. Iran's population is predominantly young and all of this contributes to their disillusionment of the regime. We should use every means possible to disseminate these cases of repression - and others - to build international support for regime change.

CONCLUSION

For too long there has been in the U.S. an academic debate about Iran: "engagement vs. containment" and "dialogue vs. regime change." Inaction and ambivalence in policy were the result. The hope that the Khatami Administration, elected in 1997, would put through important reforms lingered. As hope faded, the pro-democracy student movement turned away from the feckless Khatami regime. By 2004, however, the disgust of the pro-democracy students was complete and they turned their backs on the self-styled "moderates" in Iran.

The advent of Ahmadinejad, with his inflammatory rhetoric - frequently reiterated - makes it clear that we should adopt a determined and muscular policy aimed at non-violent regime change in Iran. The means can range from moral support for a student-led effort to demand a national referendum in favor of a constitution based on the Universal Declaration of Human Rights to the various elements described in this paper and other elements that will be formulated as circumstances dictate.

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